

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 05-20943-CR-MOORE/GARBER(s)

UNITED STATES OF AMERICA

v.

ELSA ALVAREZ,

Defendant.

_____ /

PLEA AGREEMENT

The United States of America, by and through the undersigned Assistant United States Attorney, and ELSA ALVAREZ (hereinafter referred to as the “defendant”), enter into the following agreement:

1. The defendant agrees to plead guilty to Count Two of the Superseding Information, which count charges the defendant with misprision of a felony, that is, the participation of co-defendant Carlos Alvarez in a conspiracy to act as an agent of a foreign government without prior notification to the Attorney General, in violation of Title 18, United States Code, Section 951(a) and 28 C.F.R. Sections 73.01 et seq.; all in violation of Title 18, United States Code, Section 4.

2. The defendant is aware that the sentence for this offense will be imposed by the court considering the Federal Sentencing Guidelines and Policy Statements (hereinafter “Sentencing Guidelines”). The defendant acknowledges and understands that the court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the court relying in part on the results of a Pre-Sentence Investigation by the court’s probation office, which investigation will commence after the guilty plea has been entered. The defendant is

also aware that, under certain circumstances, the court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offense identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

3. The defendant also understands and acknowledges that the court may impose a term of imprisonment of up to three years, followed by a term of supervised release of up to one year. In addition to a term of imprisonment and supervised release, the court may impose a fine of up to \$250,000.

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph two of this agreement, a special assessment in the amount of \$100 will be imposed on the defendant. The defendant agrees that any special assessment imposed shall be paid at the time of sentencing.

5. The Office of the United States Attorney for the Southern District of Florida, (hereinafter "Office"), reserves the right to inform the court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offense committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only

to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

6. The United States agrees that it will recommend at sentencing that the court reduce by three (3) levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1(b) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. The United States, however, will not be required to make this recommendation if the defendant: (1) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering this plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official.

7. The defendant is aware that the sentence has not yet been determined by the court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise and is not binding on the government, the probation office or the court. The defendant understands further that any recommendation that the government makes to the court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the court and the court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 2 above, that the defendant may not withdraw her plea based upon the court's decision not to accept a sentencing

recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

8. The defendant is aware that Title 18, United States Code, Section 3742, affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Title 18, United States Code, Section 3742, to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure from the guideline range that the court establishes at sentencing. This appeal waiver includes a waiver of the right to appeal the sentence on the ground that the sentencing guidelines are in any respect unconstitutional, or on the grounds that any fact found by the Court at sentencing was not alleged in the indictment, admitted by the defendant, found by a jury, or found beyond a reasonable doubt. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights, except for the waiver of appeal on the ground that the sentencing guidelines are in any respect unconstitutional and on the grounds that any fact found by the court at sentencing was not alleged in the indictment, admitted by the defendant, found by a jury, or found beyond a reasonable doubt. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with her attorney. The defendant further agrees, together with the United States, to request that the district court enter a specific

finding that the defendant's waiver of her right to appeal the sentence imposed in this case was knowing and voluntary.

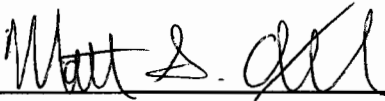
9. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

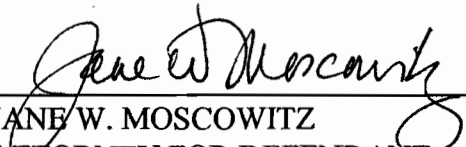
Date: 12/18/06

By: 
BRIAN K. FRAZIER
ASSISTANT UNITED STATES ATTORNEY

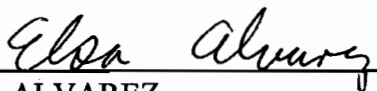
Date: 12/18/06

By: 
MATTHEW S. AXELROD
ASSISTANT UNITED STATES ATTORNEY

Date: 12/19/06

By: 
JANE W. MOSCOWITZ
ATTORNEY FOR DEFENDANT

Date: 12/19/06

By: 
ELSA ALVAREZ
DEFENDANT